

RESOLUTION NO. 38-95

HOMESTEAD COUNTY ROAD IMPROVEMENT DISTRICT

RESOLUTION OF THE BOARD OF DIRECTORS OF HOMESTEAD COUNTY ROAD IMPROVEMENT DISTRICT OF NAVAJO COUNTY, ARIZONA, APPROVING THE PLANS, SPECIFICATIONS AND COST ESTIMATES, DECLARING ITS INTENTION TO ORDER IMPROVEMENT OF THE ROADS; DESIGNATING SUCH IMPROVEMENT AS HOMESTEAD COUNTY ROAD IMPROVEMENT DISTRICT; DETERMINING THAT IMPROVEMENT BONDS WILL BE ISSUED TO FINANCE THE COSTS AND EXPENSES THEREOF AND DECLARING THAT THE IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT AND THAT THE COSTS OF SAID WORK OR IMPROVEMENT WILL BE ASSESSED UPON HOMESTEAD COUNTY ROAD IMPROVEMENT DISTRICT; AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT AND THAT THE COSTS OF SAID WORK OR IMPROVEMENT WILL BE ASSESSED UPON HOMESTEAD COUNTY ROAD IMPROVEMENT DISTRICT; AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT WILL BE PERFORMED UNDER THE PROVISIONS OF 48-901 THROUGH 48-965 INCLUSIVE, ARIZONA REVISED STATUTES, AND ALL AMENDMENTS THERETO.

WHEREAS, a Petition requesting that the roads be improved within Homestead County Road Improvement District, including a Petition to Incur Expense, has been filed pursuant to Arizona Revised Statutes Section 48-901 et seq; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-913, Chuck Williams, Navajo County Engineer has been appointed as the District Engineer to perform all engineering and surveying tasks in order to accomplish the proposed improvement; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-914, the District Engineer has filed with the Clerk plans, specifications, and Estimates of the costs and expenses of the proposed improvement project; and

WHEREAS, it is the intention of the Board to order improvement of the roads upon the completion of these proceedings; and

WHEREAS, the Board has examined the plans, specifications and Estimates.

NOW, THEREFORE IT IS RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

Section 1 Definition. In this Resolution the following terms shall have the following meanings:

"Clerk" shall mean the Clerk of the Board of Supervisors of Navajo County, Arizona, ex officio Clerk of the Board of Directors of the Homestead County Road Improvement District.

"County" shall mean Navajo County, Arizona.

"District" shall mean all lots, parcels and tracts of land lying within the exterior boundaries of the entire composite and consolidated territory as described in the petition for formation of the Homestead County Road Improvement District, a copy of said description being attached hereto as EXHIBIT "A". For a more particular Description, which map is on file with the Superintendent of Streets, the Clerk, the District Engineer, and attached hereto as EXHIBIT "B".

"District Engineer" shall mean Chuck Williams, Navajo County Engineer.

"District Map" shall mean the map showing the District in the form attached to this Resolution as EXHIBIT "B".

"Estimate" shall mean the estimate of costs and expenses of Soaring Eagle County Road Improvement District filed with the Clerk prior to adoption of this Resolution, showing the estimated cost of the proposed work to be \$31,000.00.

"Governing Body" or "Board" shall mean the Board of Directors of the Homestead County Road Improvement District.

"Incidental Expenses" shall mean compensation paid to the District Engineer, costs of printing, advertising, posting, the amount paid, the District Engineer to take charge and superintend the work of constructing the improvements, the expenses of making the assessment, appraiser's fees, all legal and financial fees, expenses and costs incurred in drafting the proceedings.

"Plans and Specifications" shall mean the plans and specifications for the Homestead County Road Improvement District filed with the Clerk prior to the adoption of this Resolution.

"Superintendent of Streets" shall mean Chuck Williams, an employee of Navajo County, Arizona, and any successor to such person.

"Work" shall mean the construction and improvement of roads all as shown on the Plans and Specifications.

Section 2. Approval of Plans, Specifications, and Estimates. The Board of Directors of the Homestead County Road Improvement District hereby preliminary adopts and approves the plans, specifications, and Estimates for the Homestead County Road Improvement District subject to such protests and modifications as may be subsequently made by this Board of Directors for the Homestead County Road Improvement District.

Section 3. Declaration of Intention to Order Improvements. the public interest and convenience require and it is the intention of this Board to order the Work to be constructed. All of said Work and improvements are to be constructed at the places and in the particular locations, as exist and as shown and delineated on the Plans and Specifications therefore, prepared by the District Engineer and filed with the Clerk, and preliminary adopted and approved. No assessment for any lot shall exceed its proportion of the Estimate. For purposes of this Resolution and of all resolutions and notices pertaining to this Resolution the improvement as herein described is hereby designated Homestead County Road Improvement District.

Section 4. Determination of Need. In the opinion of the Governing Body, the Work is of more than local or ordinary public benefit, and the Governing Body hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Homestead County Road Improvement District subject to assessment, in accordance with the benefits to be received by such lot or parcel.

Section 5. Any public street or alley within the boundaries of the Improvement District may be omitted from the Improvement District to be assessed. Any lot belonging to the United States, the State of Arizona, a county, city school district or any political subdivision or institution of the state or county, which is included within the District may be omitted from the assessment, and if so omitted, the expenses for such property shall be paid in accordance with Title 48, Chapter 6, Article 1, Section 48-920, Arizona Revised Statutes, as amended. If not omitted, the expenses shall be paid as provided by the aforesaid statutes.

Section 6. Determination and Notice of Necessity to Borrow Money. The Board finds that the public convenience requires that money shall be borrowed to represent the costs and expenses of the construction to the Work which is to be assessed upon the lands within the Homestead County Road Improvement District and determines that Bonds shall be issued in the name of the Homestead County Road Improvement District payable solely and only out of a special fund consisting of funds collectable from special assessments levied and assessed upon the lots, pieces and parcels of land within the Homestead County Road Improvement District subject to assessment therefore, in not to exceed three (3) annual principal installments form the assessments of twenty-five dollars (\$25.00) or over remaining unpaid as of the close of the period of time allotted for payment of assessments in cash prior to the execution of the Bonds.

Pursuant to Arizona Revised Statutes Section 48-946, the annual assessment installment for payments of the principal and interest on the Bonds shall be collectable in the manner and by the officers provided by law for the collection and enforcement of general taxes levied by the Homestead County Road Improvement District.

The first interest payment on the bonds issued shall be due on the first day of January 1997, which date occurs no earlier than 180 days after the expected date of completion of the Work, and the first principal payment shall be payable to Bond holders on the first day of January, 1997. The Bonds shall mature on the first day of January in the amount of \$10,333.33 per year.

Said Bonds shall bear interest at the rate of not to exceed eight and one-half percent (8½%) per annum, payable on the first day of January and July of each year. Said Bonds and the interest thereon shall be payable as provided in Arizona Revised Statutes Section, 48-935, and the assessment installments and interest will be collected as provided in Arizona Revised Statutes Section 48-946.

Section 7. Statutory Authority. The Work and all proceedings pertaining thereto shall be performed under the provisions of Sections 48-901 through 48-965, inclusive, Arizona Revised Statutes, and all amendments thereto.

Section 8. Protests and Objections to the Extent of the District. Owners of property within the Homestead County Road Improvement District may file with the Clerk of the Board of Supervisors, Navajo County, Navajo County Governmental Complex, P.O. Box 668, Holbrook, Arizona 86025, ex officio Clerk of this Board, written protests against the construction of the improvements or the extent of the Homestead County Road Improvement District to be assessed to pay the expenses of the improvements, within fifteen (15) days after the last publication of this Resolution, or within fifteen (15) days after the completion of the posting of the notices of proposed improvement, whichever date is later. Notice is hereby given that all protests made will be heard by the Board at the time fixed herein, and protesting owners shall appear at said time and show cause why their protests should not be overruled. The 10th day of July, 1995 at the hour of 11:30 A. m., at the Supervisors Chambers, Navajo County Governmental Complex, Holbrook, Arizona is fixed as the time and place when and where the Board will consider all protests against the improvements, the grades at which the Work will be done and the estimated costs of the improvements.

Owners and all other persons directly interested in the assessment, who have any objection to the extent of the Homestead County Road Improvement District or the improvement, or to any of the previous proceedings connected therewith, may, prior to the time fixed above in this Resolution, file a written protest briefly specifying the grounds of their objections.

All protests made as herein provided shall be in writing, shall clearly state the grounds of protest, shall describe the property as to which the protest relates, shall state its frontage in feet and decimals thereof, shall show the post office address of the signer, shall be signed by the owner and shall have attached an affidavit of an owner that each signature was affixed in his or her presence and is the signer's genuine signature.

Section 9. Delegation of Authority. The District Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the contract documents. All of said Work will be done under the direction of the District Engineer, such being a suitable person appointed therefore by the Superintendent of Streets and this Board, and shall see that the contract is fulfilled.

Section 10. Retained Right to Reduce or Alter Scope of Work. If, because of pending or threatened litigation concerning any one or more parcels subject to assessment, the Homestead County Road Improvement District may then cause the construction to be modified to exclude some or all of the Work which will benefit the parcel or parcels in question. The filing of a certificate and request that no bonds be issued against any parcel pursuant to Section 48-935, Arizona Revised Statutes, may be deemed to be threatened litigation. To the extent that plans, detailed drawings and specifications show that any of the improvements described therein may be done according to any of several alternative Plans and Specifications, or methods, classes or kinds of construction or classes or kinds of material, the Board reserves the right to hereafter determine according to which the Work shall be done.

Section 11. Miscellaneous. The Work shall be constructed and all proceedings therefore shall be taken, the Superintendent of Streets shall cause to be posted Notices of Proposed Improvement at not more than 300 feet apart along the lines of the proposed improvements within the Homestead County Road Improvement District, which notice shall be headed "NOTICE OF PROPOSED IMPROVEMENT", such heading to be in letters at least one (1) inch in height; the Clerk shall certify to the passage of this Resolution of Intention, and shall cause the same in its entirety to be published in two (2) successive issues of the White Mountain Independent newspaper; a copy of said Notice being attached hereto and labeled EXHIBIT "C".

Said Notice of Proposed Improvement shall state (i) the fact of passage of this Resolution and briefly describe the proposed improvements, (ii) that the proceedings are had pursuant to Chapter 6, Title 48, Arizona Revised Statutes, Article 1, and state the time and place of hearing all protests. At least ten (10) days prior to the date set for the Hearing on Protests, the Clerk shall cause copies of said notice to be mailed to the owners of real property within the District, as their names and addresses appear on the last equalized county tax roll or as known to the Clerk.

All of the locations where streets will be improved are either open to public use or have been dedicated thereto by a plat of record or otherwise, or separate easements, leases or permits have been obtained therefore, or shall be acquired and shall be deemed to be public and subject to improvement and maintenance by the Board.

The descriptions of the public improvements and the terms describing the proposed Work used in this Resolution are general in nature. All items of Work and improvements do not necessarily extend for the full length of the description thereof or may extend beyond said description. The plans and detailed drawings for the Work and improvements shall be controlling as to the correct and detailed description thereof.

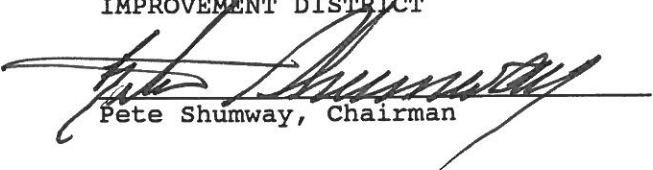
The grades and elevations shown in the Plans and Specifications are hereby adopted and established as the official grade for said Work. All such grades and elevations are in feet and decimals thereof with reference to the datum plane established by the United States Geological Survey.

The District Engineer shall make diagrams of the property contained within the Homestead County Road Improvement District; the diagrams shall show each separate lot, numbered consecutively, the area in square feet of each lot, and the location of the lot in relation to the Work proposed to be done. This Resolution shall be filed with the Clerk and made a part of the records of the Governing Body.

Following the completion of the Work and acceptance of the improvement by Navajo County, the improvements to the road will be maintained by Navajo County.

ADOPTED THIS 5th DAY OF June, 1995.


BOARD OF DIRECTORS
HOMESTEAD COUNTY ROAD
IMPROVEMENT DISTRICT


Pete Shumway, Chairman

ATTEST:


Clerk

APPROVED AS TO FORM:


County Attorney

I hereby certify that I have read the description set out under the definition "District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.

Chuck Williams
District Engineer

I hereby certify that the above foregoing Resolution No. 38-95 was fully passed by the Board of Supervisors of Navajo County, Holbrook, Arizona, at a regularly meeting held on June 5, 1995, and that a quorum was present thereat and that the vote thereon was 5 ayes and 0 nays, 0 were no vote and 0 were absent.

Clerk

Judy Jones

EXHIBIT "A"

Describing a parcel of land in the Southwest quarter of Section 9, Township 9 North, Range 22 East, of the Gila and Salt River Meridian, Navajo County, Arizona. AKA Homestead Subdivision.

More precisely described as follows:

Beginning at the NE corner of the West half of the Southwest quarter of the Southwest quarter of said Section 9
Thence, South 00° 24' 00" East, 1148.60 feet, to the Southeast corner of Lot 3 Block 4 of Homestead Subdivision;
Thence, West 74.0 feet along the North line of Lot 2;
Thence, Southerly 130.00 feet along the east line of Lot 1;
Thence, Westerly 182.00 feet along the South lines of Lot 1 of Block 4 and Lot 18 of Block 3;
Thence, Northerly 130.00 feet along the West line of Lot 18;
Thence, Westerly 148.00 feet along the North lines of Lots 17 and 2 of Block 3;
Thence, Southerly 130.00 feet;
Thence, Westerly 182.00 feet along the South lines of Lot 1 of Block 3 and Lot 2 of Block 1;
Thence, Northerly 130.00 feet;
Thence, Westerly 74.00 feet along the North line of Lot 1 of Block 1;
Thence, North 00° 24 '00" West, 1165.60 feet;
Thence, North 89° 36' 00" East, 660 feet to the Point of Beginning;

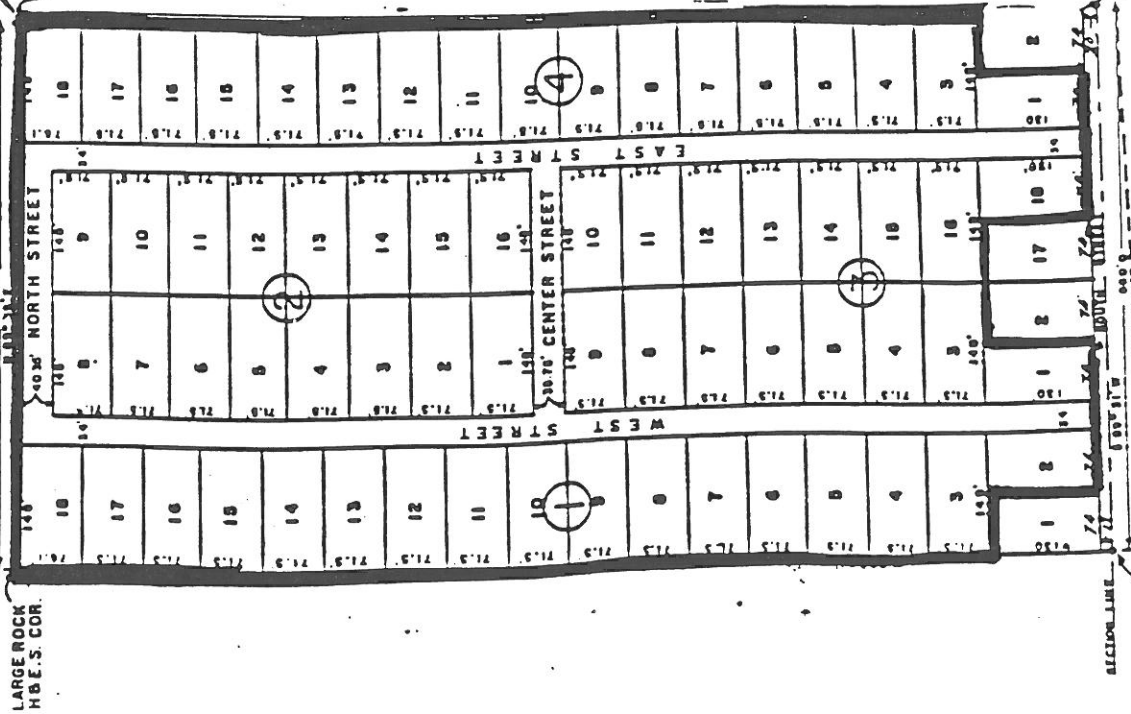
Containing 18.8 Acres M/L

HOMESTEAD SUBDIVISION

A SUBDIVISION OF THE WEST 1/2 OF THE SW 1/4 OF SEC. 9, T. 9N., R. 22E.,
OF THE G. & S. R., B. B. M., NAVAJO COUNTY, ARIZONA

P.O.B.

IRON PIN
NE COR. W 1/2 SW 1/4
SW 1/4 SEC. 9, T. 9N., R. 22E.



DEDICATION

State of Arizona ss:
County of Navajo

KNOW ALL MEN BY THESE PRESENTS, That B.M. Stradling and Mrs. Adeline Stradling, his wife, being the owners of the HOMESTEAD SUBDIVISION as shown on this plat, has caused the said property to be surveyed, subdivided, and plotted as shown hereon. Which said property shall hereinafter be known as the HOMESTEAD SUBDIVISION, and hereby declares that said plat with forth location, and gives delineations of all Lots, Blocks, and Streets constituting said HOMESTEAD SUBDIVISION, and that each Lot, Block, and Street shall be known by the name or number given respectively in said plat.

The aforesaid parties hereby dedicate to the public for its use as such, all streets herein shown.

IN WITNESS WHEREOF the owners of said HOMESTEAD SUBDIVISION have hereunto set their hand and seal this 13th day of August 1937.

B.M. Stradling

Adeline Stradling

ACKNOWLEDGEMENT

State of Arizona ss:
County of Navajo

The foregoing instrument was acknowledged before me this 13th day of August 1937 by B.M. Stradling and Mrs. Adeline Stradling for the purpose herein contained, by commission expires

W.D. Dean

Notary Public

APPROVAL

Approved this _____ day of _____ 1937 by the Board of Supervisors, Navajo County, Arizona.

By _____
Chairman

Attest _____
Clerk

CERTIFICATE

I hereby certify that the plat herein was prepared from the notes of a survey made under my supervision during the month of July 1937.

Chas. M. Shagel

Registered Professional Engineer

EXHIBIT B

